IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.621 OF 2005
IN
SUIT NO.1373 OF 1980

Maharashtra Small Scale Industries Corporation Ltd. .. Appellant

Vs.

Bank of Maharashtra & Ors. .. Respondents

Mr.A.C.Mahimkar for the Appellant.
Mr.N.J.Devashrayee for Respondent No.1.

CORAM : DR.S.RADHAKRISHNAN & S.J.VAZIFDAR, JJ.

DATE : 26TH JULY,2006.

P.C.:

1. Heard the learned Counsel for the parties. By this Appeal, the Appellant is challenging the exparte decree dated 23rd March, 2005. The Learned Single Judge had passed the exparte decree on the ground of non filing of written statement by the Defendants under Order VIII Rule 10 of the Code of Civil Procedure and accordingly had decreed the suit in terms of prayer clauses (a) & (b). The Appellant herein was the original Defendant No.2.

2. The learned Counsel for the Appellant sought to contend that the Written Statement could not be filed in time by the learned Advocate on record, as he

had expired and his firm was closed. However, no clear particulars of details as to when the Advocate died and when his firm was closed, are disclosed in the Memo of Appeal. The learned Counsel for the Appellant also contended that the Appellant has already made certain payments to Respondent No.1. However, no details of payments of amount are disclosed in the Memo of Appeal. Having regard to the facts and circumstances of the case, no ground is made out for interference with regard to the aforesaid decree. Hence, the Appeal stands dismissed. However, we make it clear that the Appellant is entitled to substantiate its contention that it has already made certain payments to Respondent No.1, during the execution proceedings of the said decree.

(DR.S.RADHAKRISHNAN,J.)

(S.J.VAZIFDAR,J.)